

TITLE 28. COMMERCIAL INSTRUMENTS AND TRANSACTIONS
SUBTITLE II. OTHER COMMERCIAL TRANSACTIONS
CHAPTER 39. CONSUMER PROTECTION PROCEDURES

D.C. Code § 28-3901 (2003)

§ 28-3901. Definitions and purposes

(a) As used in this chapter, the term --

(1) "person" means an individual, firm, corporation, partnership, cooperative, association, or any other organization, legal entity, or group of individuals however organized;

(2) "consumer" means a person who does or would purchase, lease (from), or receive consumer goods or services, including a co-obligor or surety, or a person who does or would provide the economic demand for a trade practice; as an adjective, "consumer" describes anything, without exception, which is primarily for personal, household, or family use;

(3) "merchant" means a person who does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who does or would supply the goods or services which are or would be the subject matter of a trade practice;

(4) "complainant" means one or more consumers who took part in a trade practice, or one or more persons acting on behalf of (not the legal representative or other counsel of) such consumers, or the successors or assigns of such consumers or persons, once such consumers or persons complain to the Department about the trade practice;

(5) "respondent" means one or more merchants alleged by a complainant to have taken part in or carried out a trade practice, or the successors or assigns of such merchants, and includes other persons who may be deemed legally responsible for the trade practice;

(6) "trade practice" means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services;

(7) "goods and services" means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types;

(8) "Department" means the Department of Consumer and Regulatory Affairs;

(9) "Director" means the Director of the Department of Consumer and Regulatory Affairs;

(10) "Chief of the Office of Compliance" means the senior administrative officer of the Department's Office of Compliance who is delegated the responsibility of carrying out certain duties specified under section 28-3905;

(11) "Office of Adjudication" means the Department's Office of Adjudication which is responsible for carrying out certain duties specified under section 28-3905;

(12) "Office of Consumer Education and Information" means the Department's Office of Consumer Education and Information which is responsible for carrying out the statutory requirements set forth in section 28-3906; and

(13) "Committee" means the Advisory Committee on Consumer Protection which is responsible for carrying out the statutory requirements set forth in section 28-3907.

(b) The purposes of this chapter are to:

(1) assure that a just mechanism exists to remedy all improper trade practices and deter the continuing use of such practices;

(2) promote, through effective enforcement, fair business practices throughout the community; and

- (3) educate consumers to demand high standards and seek proper redress of grievances.
- (c) This chapter shall be construed and applied liberally to promote its purpose.

D.C. Code § 28-3902 (2003)

§ 28-3902. Department of Consumer and Regulatory Affairs as consumer protection agency

- (a) The Department of Consumer and Regulatory Affairs shall be the principal consumer protection agency of the District of Columbia government and shall carry out the purposes of this chapter.
- (b) Repealed.
- (c) The Director of the Department of Consumer and Regulatory Affairs shall exercise the powers set forth in section 28-3905 through the Office of Compliance, and shall appoint a Chief of the Office of Compliance from among active members of the unified District of Columbia Bar. The Chief of the Office of Compliance may carry out investigative, conciliatory, and other duties assigned by the Director.
- (d) Repealed.
- (e) The Mayor shall appoint one or more attorneys qualified to serve as administrative law judges or attorney examiners to conduct adjudicatory proceedings. Any administrative law judge or attorney examiner appointed pursuant to this subsection may hear cases pursuant to § 2-1801.03.
- (f) Repealed.
- (g) Repealed.
- (h) Repealed.
- (i) Notwithstanding any other provision of District law, enforcement of this chapter by the Department of Consumer and Regulatory Affairs is suspended until October 1, 2002. This subsection shall not prevent the Department of Consumer and Regulatory Affairs from cooperating with, and making appropriate referrals to, another law enforcement agency.

D.C. Code § 28-3903 (2003)

§ 28-3903. Powers of the consumer protection agency

- (a) The Department, in its discretion, may:
 - (1) receive and investigate any consumer complaint and initiate its own investigation of deceptive, unfair, or unlawful trade practices against consumers where the:
 - (i) amount in controversy totals \$ 2,500 or more; or
 - (ii) case, or cases, indicates a pattern or practice of abuse on the part of a business or industry;
 - (2) issue summonses and subpoenas to compel the production of documents, papers, books, records, and other evidence, hold hearings, compel the attendance of witnesses, administer oaths, and take the testimony of any person under oath, concerning any trade practice;
 - (3) issue cease and desist orders with respect to trade practices determined to be in violation of District law by the Department;
 - (4) report to appropriate governmental agencies any information concerning violation of any law;

- (5) present the interest of consumers before administrative and regulatory agencies and legislative bodies;
- (6) assist, advise, and cooperate with private, local and federal agencies and officials to protect and promote the interest of the District of Columbia consumer public;
- (7) assist, develop, and conduct programs of consumer education and information through public hearings, meetings, publications, or other materials prepared for distribution to the consumer public of the District of Columbia;
- (8) undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services and in the extension of credit;
- (9) exercise and perform such other functions and duties consistent with the purposes or provisions of this chapter which may be deemed necessary or appropriate to protect and promote the welfare of District of Columbia consumers;
- (10) publish rules and regulations governing the Department's procedures, developed by the Director in accordance with the District of Columbia Administrative Procedure Act (sections 2-501 et seq.);
- (11) implead and interplead persons who are properly parties to a case before the Department under section 28-3905;
- (12) negotiate, agree to, and sign consent decrees;
- (13) determine whether a person has executed a trade practice in violation of any law of the District of Columbia, and provide full remedy for such violation by:
 - (A) damages in contract, and orders for restitution, rescission, reformation, repair, and replacement,
 - (B) stipulations, conditions, and directives, both temporary and permanent, of all kinds,
 - (C) enforcement of orders and decrees, collection of civil penalties, and other activities, in the courts,
 - (D) and other lawful methods; and
- (14) maintain both confidential and public records, and publicize its own actions, in accordance with section 28-3905.
- (15) issue rules that interpret, define, state general policy, or prescribe requirements to prevent unfair, deceptive, and unlawful trade practices as set forth in section 28-3904;
- (16) appoint private attorneys from the District of Columbia bar, who shall take action in the name of the Department, and shall promulgate regulations implementing this provision, in order to assist in the enforcement of any consumer complaint.

(b) The Department shall:

- (1) perform the functions of the Mayor, Department of Consumer Affairs, Board of Consumer Goods Repairs Services or Department of Economic Development in:
 - (A) the District of Columbia Consumer Credit Protection Act of 1971 (Title 28, Chapters 36, 37, 38, et al.),
 - (B) the District of Columbia Consumer Retail Credit Regulation (16 DCMR Ch. 1),
 - (C) the District of Columbia Consumer Goods Repair Regulation (16 DCMR Ch. 6); and
 - (D) the District of Columbia Consumer LayAway Plan Act (section 28-3818);
- (2) render annual reports to the Council and the Mayor as to the number of complaints filed and the nature, status, and disposition thereof, and about the other activities of the Department undertaken during the previous year.

(c) The Department may not:

- (1) order damages for personal injury of a tortious nature;
- (2) apply the provisions of section 28-3905 to:
 - (A) landlord-tenant relations;

- (B) persons subject to regulation by the Public Service Commission of the District of Columbia;
- (C) professional services of clergymen, lawyers, and Christian Science practitioners engaging in their respective professional endeavors;
- (D) a television or radio broadcasting station or publisher or printer of a newspaper, magazine, or other form of printed advertising, which broadcasts, publishes, or prints an advertisement which violates District law, except insofar as such station, publisher or printer engages in a trade practice which violates District law in selling or offering for sale its own goods or services, or has knowledge of the advertising being in violation of District law; or
- (E) an action of an agency of government.

D.C. Code § 28-3904 (2003)

§ 28-3904. Unlawful trade practices

It shall be a violation of this chapter, whether or not any consumer is in fact misled, deceived or damaged thereby, for any person to:

- (a) represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;
- (b) represent that the person has a sponsorship, approval, status, affiliation, certification, or connection that the person does not have;
- (c) represent that goods are original or new if in fact they are deteriorated, altered, reconditioned, reclaimed, or second hand, or have been used;
- (d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;
- (e) misrepresent as to a material fact which has a tendency to mislead;
- (e-1) violate any provision of Chapter 16A of Title 31.
- (f) fail to state a material fact if such failure tends to mislead;
- (g) disparage the goods, services, or business of another by false or misleading representations of material facts;
- (h) advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered;
- (i) advertise or offer goods or services without supplying reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying condition which has no tendency to mislead;
- (j) make false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions, or the price in comparison to price of competitors or one's own price at a past or future time;
- (k) falsely state that services, replacements, or repairs are needed;
- (l) falsely state the reasons for offering or supplying goods or services at sale or discount prices;
- (m) harass, or threaten a consumer with any act other than legal process, either by telephone, cards, or letters;
- (n) cease work on, or return after ceasing work on, an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise, in other than the condition contracted for, or to impose a separate charge to reassemble or restore such an object to such a condition without notification of such charge prior to beginning work on or receiving such object;
- (o) replace parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise when such parts or components are not defective, unless requested by the consumer;

(p) falsely state or represent that repairs, alterations, modifications, or servicing have been made and receiving remuneration therefor when they have not been made;

(q) fail to supply to a consumer a copy of a sales or service contract, lease, promissory note, trust agreement, or other evidence of indebtedness which the consumer may execute;

(r) make or enforce unconscionable terms or provisions of sales or leases; in applying this subsection, consideration shall be given to the following, and other factors:

(1) knowledge by the person at the time credit sales are consummated that there was no reasonable probability of payment in full of the obligation by the consumer;

(2) knowledge by the person at the time of the sale or lease of the inability of the consumer to receive substantial benefits from the property or services sold or leased;

(3) gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in transactions by like buyers or lessees;

(4) that the person contracted for or received separate charges for insurance with respect to credit sales with the effect of making the sales, considered as a whole, unconscionable; and

(5) that the person has knowingly taken advantage of the inability of the consumer reasonably to protect his interests by reasons of age, physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of the agreement, or similar factors;

(s) pass off goods or services as those of another;

(t) use deceptive representations or designations of geographic origin in connection with goods or services;

(u) represent that the subject of a transaction has been supplied in accordance with a previous representation when it has not;

(v) misrepresent the authority of a salesman, representative or agent to negotiate the final terms of a transaction;

(w) offer for sale or distribute any consumer product which is not in conformity with an applicable consumer product safety standard or has been ruled a banned hazardous product under the federal Consumer Product Safety Act (15 U.S.C.S. § 2051-83), without holding a certificate issued in accordance with section 14(a) of that Act to the effect that such consumer product conforms to all applicable consumer product safety rules (unless the certificate holder knows that such consumer product does not conform), or without relying in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to a consumer product safety rule issued under that Act;

(x) sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Code, or by operation or requirement of federal law;

(y) violate any provision of the District of Columbia Consumer LayAway Plan Act (section 28-3818);

(z) violate any provision of the Rental Housing Locator Consumer Protection Act of 1979 (section 28-3819) or, if a rental housing locator, to refuse or fail to honor any obligation under a rental housing locator contract;

(z-1) violate any provision of Chapter 46 of this title;

(aa) violate any provision of sections 32-404, 32-405, 32-406, and 32-407;

(bb) refuse to provide the repairs, refunds, or replacement motor vehicles or fails to provide the disclosures of defects or damages required by the Automobile Consumer Protection Act of 1984;

(cc) violate any provision of the Real Property Credit Line Deed of Trust Act of 1987; or

(dd) violate any provision of title 16 of the District of Columbia Municipal Regulations.

§ 28-3905. Complaint procedures

(a) A case is begun by filing with the Department a complaint plainly describing a trade practice and stating the complainant's (and, if different, the consumer's) name and address, the name and address (if known) of the respondent, and such other information as the Director may require. The complaint must be in or reduced by the Director to writing. The filing of a complaint with the Department shall toll the periods for limitation of time for bringing an action as set out in section 12-301 until the complaint has been resolved through an administrative order, consent decree, or dismissal in accordance with this section or until an opportunity to arbitrate has been provided in Chapter 5 of Title 50.

(b) The Director shall investigate each such complaint and determine:

(1) what trade practice actually occurred, and

(2) whether the trade practice which occurred violates any statute, regulation, rule of common law, or other law, of the District of Columbia.

(b-1) In carrying out an investigation and determination pursuant to subsection (b) of this section, the Director shall consult the respondent and such other available sources of information, and make such other efforts, as are appropriate and necessary to carry out such duties.

(c) If at any time the Director finds that the trade practice complained of may, in whole or in part, be a violation of law other than a law of the District of Columbia or a law within the jurisdiction of the Department, the Director may in writing so inform the complainant, respondent and officials of the District, the United States, or other jurisdiction, who would properly enforce such law.

(d) The director shall determine that there are, or are not, reasonable grounds to believe that a trade practice, in violation of a law of the District of Columbia within the jurisdiction of the Department, has occurred in any part or all of the case. The Director may find that there are not such reasonable grounds for any of the following reasons:

(1) any violation of law which may have occurred is of a law not of the District of Columbia or not within the jurisdiction of the Department, or occurred more than three years prior to the filing of the complaint;

(2) in case paragraph (1) of this subsection does not apply, no trade practice occurred in violation of any law of the District;

(3) the respondent cannot be identified or located, or would not be subject to the personal jurisdiction of a District of Columbia court;

(4) the complainant, to the Director's knowledge, no longer seeks redress in the case;

(5) the complainant and respondent, to the Director's knowledge, have themselves reached an agreement which settles the case; or

(6) the complainant can no longer be located.

(d-1) The Director may dismiss any part or all of a case to which one or more of the reasons stated in subsection (d) of this section apply. The Director shall inform all parties in writing of the determination, and, if any part or all of the case is dismissed, shall specify which of the reasons in this subsection applies to which part of the case, and such other detail as is necessary to explain the dismissal.

(e) The Director may attempt to settle, in accordance with subsection (h) of this section, each case for which reasonable grounds are found in accordance with subsection (d-1) of this section. After the Director's determination as to whether the complaint is within the Department's jurisdiction, in accordance with subsection (d-1) of this section, the Director shall:

(1) effect a consent decree;

(2) dismiss the case in accordance with subsection (h)(2) of this section;

(3) through the Chief of the Office of Compliance present to the Office of Adjudication, with copies to all parties, a brief and plain statement of each trade practice that occurred in violation of District law, the law the trade practice violates, and the relief sought from the Office of Adjudication for violation; or

(4) notify all parties of another action taken, with the reasons therefor stated in detail and supported by fact. Reasons may include:

(A) any reason listed in subsections (d)(1) through (d)(6) of this section; and

(B) that the presentation of a charge to the Office of Adjudication would not serve the purposes of this chapter.

(5) Repealed.

(f) When the case is transmitted to the Office of Adjudication, the Chief of the Office of Compliance shall sign, and serve the respondent, the Department's summons to answer or appear before the Office of Adjudication. Not less than 15 nor more than 90 days after such transmittal, the case shall be heard. The case shall proceed under section 10 of the District of Columbia Administrative Procedure Act (section 2-509). The Office of Adjudication may, without delaying its hearing or decision, attempt to settle the case pursuant to subsection (h) of this section, and has discretion to permit any stipulation or consent decree the parties agree to. The Director shall be a party on behalf of the complainant. Applications to intervene shall be decided as may be proper or required by law or rule. Reasonable discovery shall be freely allowed. Any finding or decision may be modified or set aside, in whole or part, before a notice of appeal is filed in the case, or the time to so file has run out.

(g) If, after hearing the evidence, the Office of Adjudication decides a trade practice occurred in which the respondent violated a law of the District of Columbia within the jurisdiction of the Department, such Office of Adjudication shall issue an order which:

(1) shall require the respondent to cease and desist from such conduct;

(2) shall, if such Office of Adjudication also decides that the consumer has been injured by the trade practice, order redress through contract damages, restitution for money, time, property or other value received from the consumer by the respondent, or through rescission, reformation, repair, replacement, or other just method;

(3) shall state the number of trade practices the respondent performed in violation of law;

(4) shall, absent good cause found by the Office of Adjudication, require the respondent to pay the Department its costs for investigation, negotiation, and hearing;

(5) may include such other findings, stipulations, conditions, directives, and remedies including punitive damages, treble damages, or reasonable attorney's fees, as are reasonable and necessary to identify, correct, or prevent the conduct which violated District law; and

(6) may be based, in whole or part, upon a violation of a law establishing or regulating a type of business, occupational or professional license or permit, and may refer the case for further proceedings to an appropriate board or commission, but may not suspend or revoke a license or permit if there is a board or commission which oversees the specific type of license or permit.

(h) (1) At any time after reasonable grounds are found in accordance with subsection (d) of this section, the respondent, the Department (represented by (i) the Director prior to transmittal to the Office of Adjudication and after an order issued pursuant to subsection (f) of this section has been appealed, and (ii) the Office of Adjudication after transmittal to the Office of Adjudication and prior to such appeal), and the complainant, may agree to settle all or part of the case by a written consent decree which may:

(A) include any provision described in subsection (g)(2) through (6) of this section;

(B) not contain an assertion that the respondent has violated a law;

(C) contain an assurance that the respondent will refrain from a trade practice;

(D) bar the Department from further action in the case, or a part thereof; or

(E) contain such other provisions or considerations as the parties agree to.

(2) The representative of the Department shall administer the settlement proceedings, and may utilize the good offices of the Advisory Committee on Consumer Protection. All settlement proceedings shall be informal and include all interested parties and such representatives as the parties may choose to represent them. Such proceedings shall be private, and nothing said or done, except a consent decree, shall be made public by the Department, any party, or the Advisory Committee, unless the parties agree thereto in writing. The representative of the Department may call

settlement conferences. For persistent and unreasonable failure by the complainant to attend such conferences or to take part in other settlement proceedings, the Director, prior to transmittal to the Office of Adjudication, may dismiss the case.

(3) A consent decree described in paragraph (1) of this subsection may be modified by agreement of the Department, complainant and respondent.

(i) (1) An aggrieved party may appeal to the District of Columbia Court of Appeals after:

(A) the Office of Adjudication decides a case pursuant to subsection (f) of this section;

(B) all parts of a case have been dismissed by operation of subsection (d) or (e) of this section; or

(C) the Director dismisses an entire case in accordance with subsection (h)(2) of this section.

(1A) Such appeals shall be conducted in accordance with the procedures and standards of section 11 of the District of Columbia Administrative Procedure Act (section 2-510), and take into account the procedural duties placed upon the Department in this section and all actions taken by the Department in the case.

(2) An aggrieved party may appeal any ruling of the Office of Adjudication under subsection (j) of this section to the Superior Court of the District of Columbia.

(3) (A) Any person found to have executed a trade practice in violation of a law of the District of Columbia within the jurisdiction of the Department:

(i) shall be liable to the Department for a civil penalty of not exceeding \$ 1000.00 for each violation enumerated in an order pursuant to subsection (g)(3) of this section; and

(ii) may be assessed and made liable to the Department for a civil penalty of not exceeding \$ 1000.00 for each violation or failure to adhere to a provision, of an order described in subsection (f), (g), or (j) of this section or a consent decree described in subsection (h) of this section.

(B) The Department, the complainant, or the respondent may sue in the Superior Court of the District of Columbia for a remedy, enforcement, or assessment or collection of a civil penalty, when any violation, or failure to adhere to a provision of a consent decree described in subsection (h) of this section, or an order described in subsection (f), (g), or (j) of this section, has occurred. The Department shall sue in that Court for assessment of a civil penalty when an order described in subsection (g) of this section has been issued and become final. A failure by the Department or any person to file suit or prosecute under this subparagraph in regard to any provision or violation of a provision of any consent decree or order, shall not constitute a waiver of such provision or any right under such provision. The Court shall levy the appropriate civil penalties, and may order, if supported by evidence, temporary, preliminary, or permanent injunctions, damages, treble damages, reasonable attorney's fees, consumer redress, or other remedy. The Court may set aside the final order if the Court determines that the Department of Consumer and Regulatory Affairs lacked jurisdiction over the respondent or that the complaint was frivolous. If, after considering an application to set aside an order of the Department of Consumer and Regulatory Affairs, the Court determines that the application was frivolous or that the Department of Consumer and Regulatory Affairs lacked jurisdiction, the Court shall award reasonable attorney's fees.

(C) Application to the Court to enforce an order shall be made at no cost to the District of Columbia or the complainant.

(4) The Corporation Counsel shall represent the Department in all proceedings described in this subsection.

(j) If, at any time before notice of appeal from a decision made according to subsection (f) of this section is filed or the time to so file has run out, the Director believes that legal action is necessary to preserve the subject matter of the case, to prevent further injury to any party, or to enable the Department ultimately to order a full and fair remedy in the case, the Chief of the Office of Compliance shall present the matter to the Office of Adjudication, which may issue a cease and desist order to take effect immediately, or grant such other relief as will assure a just adjudication of the case, in accordance with such beliefs of the Director which are substantiated by evidence. The Office of Adjudication's ruling may be appealed to court within 7 days of notice thereof on the Director, respondent, and complainant.

(k) (1) A person, whether acting for the interests of itself, its members, or the general public, may bring an action under this chapter in the Superior Court of the District of Columbia seeking relief from the use by any person of a trade practice in violation of a law of the District of Columbia and may recover or obtain the following remedies:

- (A) treble damages, or \$ 1,500 per violation, whichever is greater, payable to the consumer;
- (B) reasonable attorney's fees;
- (C) punitive damages;
- (D) an injunction against the use of the unlawful trade practice;
- (E) in representative actions, additional relief as may be necessary to restore to the consumer money or property, real or personal, which may have been acquired by means of the unlawful trade practice; or
- (F) any other relief which the court deems proper.

(2) The remedies or penalties provided by this chapter are cumulative and in addition to other remedies or penalties provided by law. Nothing in this chapter shall prevent any person who is injured by a trade practice in violation of a law of the District of Columbia within the jurisdiction of the Department from exercising any right or seeking any remedy to which the person might be entitled or from filing any complaint with any other agency.

(3) Any written decision made pursuant to subsection (f) of this section is admissible as prima facie evidence of the facts stated therein.

(4) If a merchant files in any court a suit seeking to collect a debt arising out of a trade practice from which has also arisen a complaint filed with the Department by the defendant in the suit either before or after the suit was filed, the court shall dismiss the suit without prejudice, or remand it to the Department.

(l) The Director and Office of Adjudication may use any power granted to the Department in section 28-3903, as each reasonably deems will aid in carrying out the functions assigned to each in this section. Each, while holding the primary responsibility of the Department for decision in a certain case, may join such case with others then before the Department. No case may be disposed of in a manner not expressly authorized in this section. Every complaint case filed with the Department and within its jurisdiction shall be decided in accordance with the procedures and sanctions of this section, notwithstanding that a given trade practice, at issue in the case, may be governed in whole or in part by another law which has different enforcement procedures and sanctions.

(m) (1) Whenever requested, the Department will make available to the complainant and respondent an explanation, and any other information helpful in understanding, the provisions of any consent decree to which the Department agrees, and any order or decision which the Department makes.

(2) The Director shall maintain a public index for all the cases on which the Department has made a final action or a consent decree, organized by:

- (A) name of complainant;
- (B) name of respondent;
- (C) industry of the merchant involved;
- (D) nature of the violation of District law alleged or found to exist (for example, subsection of section 28-3904 involved, or section of a licensing law involved);
- (E) final disposition.

(n) There shall be established a Consumer Protection Education Fund ("Fund"). All monies awarded to or paid to the Department by operation of this section, including final judgements, consent decrees, or settlements reduced to final judgements, shall be paid into the Fund in order to further the purpose of this chapter as enumerated in § 28-3901.

(o) Every complaint case that is before the Department in accordance with this section shall proceed in confidence, except for hearings and meetings before the Office of Adjudication, until the Department makes a final action or a consent decree.

(p) The Director may file a complaint in accordance with subsection (a) of this section, on behalf of one or more consumers or as complainant, based on evidence and information gathered by the Department in carrying out this chapter. Persons not parties to but directly or indirectly intended as beneficiaries of an order described in subsection (f), (g), or (j) of this section, or a consent decree described in subsection (h) of this section, arising out of a complaint filed by the Director, may enforce such order or decree in the manner provided in subsection (i)(3)(B) of this section.

(q) At any hearing pursuant to subsection (f) or (j) of this section, a witness has the right to be advised by counsel present at such hearing. In any process under this section, the complainant and respondent may have legal or other counsel for representation and advice.

(r) All cases for which complaints were filed before March 5, 1981, may be presented to and heard by the Office of Adjudication notwithstanding the time limits previously provided in section 28-3905(d), 28-3905(e), and 28-3905(f) for the investigation and transmittal of cases to the Office of Adjudication, and for the hearing of cases by the Office of Adjudication.

D.C. Code § 28-3906 (2003)

§ 28-3906. Consumer education and information

(a) The Office of Consumer Education and Information shall:

(1) inform the public and the business community of existing laws, regulations and guidelines concerning consumer rights and standards of fair treatment;

(2) coordinate consumer education programs with, and use consumer education programs to help carry out, the consumer protection programs of the Office;

(3) handle publicity for the Office [Department] concerning cases under section 28-3905, when the Director requests;

(4) aid the Director in the formulation of consumer protection plans and recommend legislation and regulations related to consumer education;

(5) cooperate with consumer-related agencies, groups and individuals in the D.C. area to improve consumer education efforts.

(b) The Chief of the Office of Consumer Education and Information shall be appointed by the Director.

D.C. Code § 28-3907 (2003)

§ 28-3907. Advisory Committee on Consumer Protection

(a) There shall be an Advisory Committee on Consumer Protection consisting of 11 members appointed by the Mayor for three-year terms. The nongovernmental members, immediately prior to the effective date of this chapter, of the Advisory Committee on Consumer Affairs established in Organization Order No. 40 (C.O. 73-225; October 3, 1973), shall carry out their terms. No District Government employees shall be members. Four members shall be District merchants. Seven members shall be persons with demonstrated and current records of activity on behalf of consumers.

(b) The Committee shall:

(1) recommend priorities in, and, at the Committee's discretion, carry out investigations and research, which concern broad, developing, or frequently encountered consumer problems;

(2) assist the Director as the Director may request;

(3) monitor the performance and organization of the Office, by quantitative and qualitative methods, and make recommendations and criticisms, based thereon; and

(4) cooperate with consumer-related agencies, groups, and individuals in the District and in the metropolitan area to improve city-wide and area-wide consumer protection and education efforts.

(c) The Committee shall elect one of its members as Chairperson and another as Vice-Chairperson, each to serve at the pleasure of the Committee, and such other officers and subcommittees as it determines.

(d) The Office shall provide staff support for the Advisory Committee. Appropriate expenses incurred by the Committee as a whole, or by individual members, may be paid when authorized by the Director.

(e) The Committee shall meet on call by the Chairperson as frequently as required to perform its duties, but no less than once each month, and it shall submit an annual report to the Mayor, Council, and the public.

(f) The Committee shall hold public hearings as deemed necessary.

D.C. Code § 28-3908 (2003)

§ 28-3908. Severability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected.

D.C. Code § 28-3909 (2003)

§ 28-3909. Restraining prohibited acts

(a) Notwithstanding any provision of law to the contrary, if the Corporation Counsel has reason to believe that any person is using or intends to use any method, act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Corporation Counsel, in the name of the District of Columbia, may petition the Superior Court of the District of Columbia to issue a temporary or permanent injunction against the use of the method, act, or practice. In any action under this section, the Corporation Counsel shall not be required to prove damages and the injunction shall be issued without bond. The Corporation Counsel may recover restitution for property lost or damages suffered by consumers as a consequence of the unlawful act or practice.

(b) In addition, in an action under this section, the Corporation Counsel may recover a civil penalty of not more than \$ 1,000 for each violation, the costs of the action, and reasonable attorney's fees.

(c) The Corporation Counsel may also:

(1) represent the interests of consumers before administrative and regulatory agencies and legislative bodies;

(2) assist, advise, and cooperate with private, local, and federal agencies and officials to protect and promote the interests of consumers;

(3) assist, develop, and conduct programs of consumer education and information through public hearings, meetings, publications, or other materials prepared for distribution to consumers;

(4) undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services and in the extension of consumer credit;

(5) perform other functions and duties which are consistent with the purposes or provisions of this chapter, and with the Corporation's Counsel's role as *parens patriae*, which may be necessary or appropriate to protect and promote the welfare of consumers;

(6) negotiate and enter into agreements for compliance by merchants with the provisions of this chapter; or

(7) publicize its own actions taken in the interests of consumers.

D.C. Code § 28-3910 (2003)

§ 28-3910. Investigatory powers of Corporation Counsel.

In the course of an investigation to determine whether to seek relief under section 28-3909, the Corporation Counsel may subpoena witnesses, administer oaths, examine an individual under oath, and compel production of records, books, papers, contracts, and other documents. Information obtained under this section is not admissible in a later criminal proceeding against the person who provides the evidence.

D.C. Code § 28-3911 (2003)

§ 28-3911. District of Columbia Consumer Protection Fund.

(a) Subject to appropriation and authorization by Congress, there is established the District of Columbia Consumer Protection Fund ("Fund") to be operated as a proprietary fund with assets not to exceed \$ 1,490,000 at any time. The Fund shall consist of: (1) sums as may be transferred to the Fund under a court order or judgment in an action brought pursuant to section 28-3909, (2) gifts, grants, or cy pres payments made to support consumer protection activities by the Corporation Counsel, and (3) sums as may be recovered by the Corporation Counsel under section 28-3909 by judgment or in settlement of claims. Any balance in excess of \$ 1,490,000 shall be deposited in the General Fund of the District of Columbia.

(b) The Fund shall be used by the Corporation Counsel for the payment of costs, expenses, and charges incurred in and reasonably related to:

- (1) the investigation, preparation, filing, and maintenance of actions under sections 28-3909 and 28-3905(i)(4);
- (2) receiving or responding to consumer complaints; or
- (3) consumer education activities.

(c) The Mayor shall conduct an annual audit of all income and expenses of the Fund and shall submit the audit report to the Council.